

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOSE CARDONA :
Plaintiff :
v. : 3:11-CV-0054
(JUDGE MARIANI)
B.A. BLEDSOE, et al., :
Defendants :
:

ORDER

AND NOW, to wit, this 6th DAY OF FEBRUARY, 2012, upon consideration of Plaintiff's Motion for Class Certification (Doc. 50), *de novo* review of Magistrate Judge Carlson's Report & Recommendation (Doc. 94), Plaintiff's Objections to the Report & Recommendation (Doc. 98), and Plaintiff's Motion for an Evidentiary Hearing and Protective Order (Doc. 90), **IT IS HEREBY ORDERED THAT:**

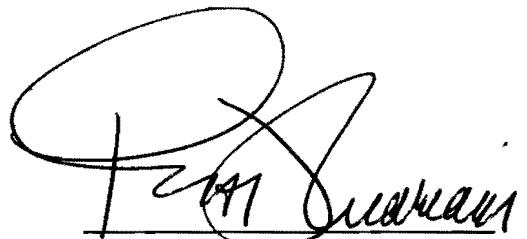
1. Plaintiff's Objections (Doc. 98) are **SUSTAINED IN PART AND OVERRULED IN PART.**

After reviewing Plaintiff's Motion for Class Certification (Doc. 50) and Objections (Doc. 98), the Court sustains Plaintiff's objection that he requested the appointment of counsel in his prayer for relief. The Court overrules all other objections.

2. Magistrate Judge Carlson's Report & Recommendation (Doc. 94) is **ADOPTED IN PART AND REJECTED IN PART.** The Court adopts Magistrate Carlson's recommendation to deny class certification. However, the Court finds that Plaintiff clearly asked for appointment of counsel as an alternative to Plaintiff's serving as class

representative in his prayer for relief and rejects Judge Carlson's conclusion that "it is abundantly clear that Cardona has not requested the appointment of . . . counsel." (Doc. 94 at 12). The Court determines that an appointment of counsel is not appropriate at this time under 28 U.S.C. § 1915(e)(1), and adopts Magistrate Judge Carlson's recommendation that appointment of counsel is inappropriate (Doc. 94 at 12, n.3).

3. Plaintiff's Motion for Appointment of Counsel (Doc. 50) is **DENIED**.
4. Plaintiff's Motion for Class Certification (Doc. 50) is **DENIED**.
5. Plaintiff's Motion for an Evidentiary Hearing and Protective Order (Doc. 90) is **DENIED AS MOOT.**



Robert D. Mariani
United States District Judge